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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,160	12/22/2000	Lance Parker	INT1.003-US	1231
3775 7590 06/15/2007 ELMAN TECHNOLOGY LAW, P.C. P. O. BOX 209 SWARTHMORE, PA 19081			EXAMINER ROBERTSON, DAVID	
			ART UNIT 3623	PAPER NUMBER
			MAIL DATE 06/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/747,160	PARKER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dave Robertson	3623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 August 2004.  
2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-55 is/are pending in the application.  
4a) Of the above claim(s) 16-24 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-15 and 25-54 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/14/2001</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This is a Non-final office action examining claims 1-15 and 25-54.

#### ***Election/Restrictions***

2. Applicant's election without traverse of Invention Group I, claims 1-15 and 25-54, in the reply filed on August 3, 2004 is acknowledged. Claims 16-24 and 55 are cancelled.

#### ***Claim Objections***

3. Claim 8 is objected to because of the following informalities: Claim 8 recites "responses that is correlates [sic] to". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-15, 25, 27-39, 40, and 42-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Peters et al (US Pat. 5,842,195).

Peters teaches a computer-implemented method for distributing surveys to respondents, automatically processing the surveys and collating the responses,

including the ability to target certain respondents depending on their response to a previous survey and sending a second follow-up survey in response to the first.

Specifically with respect to the claims as recited:

Claim 1

Peters teaches distributing a first survey, receiving, and analyzing the responses automatically (see Abstract); and obtaining a second survey based on the analysis of the response to the first survey (see column 4 from line 23).

Claim 3

Peters teaches a first survey and a second survey based on the first survey, as in claim 1 above, the first survey being a "general" survey and the second survey being a "specific" survey (see column 4 from line 39: the sample question "Do you like chocolate?" in the first survey compared to "Would you like a free sample of our new brand X?" of the second, follow-up survey, a more specific survey based on the response to the first).

Claim 4

Peters teaches a database of survey questions (Figure 13: the Survey Master, a collection (a database) of survey questions) and selecting sets of survey questions from the database (see column 8 from line 13: steps of preparing the survey questionnaire document including selecting from the Survey Master Document).

Claim 5

Peters teaches validating the responses (see column 6 from line 31, specifying allowable answers and field values and lengths, a pre-cursor to validating the responses

according to valid data entry field values, types and ranges, as is inherent to the implementation of data entry controls of the Survey Interface in Microsoft (MS) Windows).

Claims 6, 7 and 8

Peters teaches displaying results of a first survey (see Figure 12, results of Survey 1); wherein the results are displayed on a graphical user interface (see Figure 12 showing results of Survey 1 and Survey 2 (in at least the number of responses to date); and column 23 from line 49: the preferred embodiment disclosed as compatible with Microsoft (MS) Windows, a graphical user interface; and column 33 from line 56: MS Windows controls structure including placement X pos, Y pos, for graphical placement of a question on a display); the responses correlated to pre-determined criteria (see from column 24 line 40, the Author module teaching creation of the survey questions with pre-determined criteria for responses, i.e. the type and range of allowable responses for each question).

Claim 9

Peters teaches analyzing the responses automatically (see Abstract, and operation of the Survey Collating Module, from column 26 line 32).

Claim 10

Peters teaches distributing surveys over a network to a plurality of respondents (column 2 from line 47).

Claims 11 and 12

Peters teaches tagging each question with a computer-readable tag and automatically analyzing is performed using the tags (see implementation details from column 29 line 30, especially the implementation of the Question Box, from column 32 line 22).

Claims 13 and 14

Peters teaches storing survey questions as a library of templates and the selecting and adding of information to the selected survey templates based on a proprietor of the first and second surveys (see column 8 from line 13 and implementation detail from column 29 at line 13; and Figure 10 and 13, teaching the ability to create Survey Master Documents (SVMs), creating and saving master documents as “templates” for current or future use and modification; the “author” as “proprietor” of the surveys as defined by the instant invention).

Claim 15

Peters teaches distributing a first survey, receiving, and analyzing the responses and obtaining a second survey based on the analysis of the response as in claim 1. By targeting certain respondents depending on their response to a previous survey (see column 4 from line 44) Peters inherently teaches *recommending the second survey based on the responses to the first survey; wherein [the] obtaining a second survey comprises retrieving the second survey in response to selection of the second survey*. That is, that Peters teaches a second survey in response to the first, the second survey must be retrieved and selected, the “recommendation” to send the second survey based

on the response to a question in the first survey, for example "Do you like chocolate?" (column 4 from line 29) causing a second survey with the question "Would you like a free sample of our new brand X?"

Claims 25 and 27-39 recite computer-readable medium implementing the methods of claims 1 and 3-15 and are similarly rejected for reasons given above for the respective claims and claim elements.

Claims 40 and 42-54 recite computer apparatus for implementing the methods of claims 1 and 3-15 and are similarly rejected for reasons given above for the respective claims and claim elements.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 26, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters et al (US Pat. 5,842,195) as applied to claims 1, 25 and 40 above, and further in view of in view of Kurland et al US Pat. 4,603,232).

Kurland teaches a computer-implemented method for distributing marketing surveys over electronic communication networks including the ability to send multiple different types of surveys and follow-up or tailored surveys to individual or sub-groups of respondents.

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Specifically with respect to the claims as recited:

Claim 2

Peters teaches distributing, receiving, and automatically analyzing responses to a first survey and a second survey based on responses to the first survey as in claim 1; however Peters does not expressly teach a third survey based on responses to second survey.

Kurland expressly teaches *multiple surveys...based on the results of a prior survey* (see Abstract, column 1 from line 29 on the need for "follow-up surveys" in market research, and column 4 from line 7 teaching "multiple surveys...rapidly disseminated to the same panelists..an ability to rapidly change the survey content to conduct a modified survey based on the results of a prior survey."). It would have been obvious to one of ordinary skill in the art at the time of invention that a survey system such as Peters, with the motivation of Kurland to provide multiple follow-up surveys based on responses to prior surveys, as this would have provided increasingly more accurate and individualized respondent data with successive surveys, i.e. a second survey, a third survey, and so on, thereby receiving, collating, analyzing and reporting better and more accurate survey data.

Claim 26 recites a computer-readable medium implementing the method of claim 2 and is similarly rejected for reasons given above for the respective claim elements.

Claim 41 recites computer apparatus for implementing the method of claim 2 and is similarly rejected for reasons given above for the respective claim elements.



***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Abelow (US 5,999,908) teaches a survey method using integrated survey apparatus enabling two-way communication to conduct surveys and follow-up surveys on user product recommendations.

Cohen et al (US 5740035) teaches a survey device including a feature to validate that a user response is within a set of predetermined acceptable responses and sending an unacceptable response signal if the response does not fall within an acceptable set of responses.

Schulze and Everett (US 6233564) teach a consumer survey method including following up with a second written survey using a first interactive survey.

Peterson (US 6577713) teaches a method of system for creation of telephone surveys including follow-up surveys based on the response to a prior survey, and web site clients to logging on and creating a new survey from a previously saved survey template (§ 2 of Detailed Description).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is 571-272-8220. The examiner can normally be reached on 8:15am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dcr

*Dcr*  
*6/7/07*

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PRIMARY EXAMINER